

HB 431 Testimony on behalf of Moritz Student Organizations

To Chairman Lang, Vice Chair Plummer, Ranking Member Leland, and members of the House Criminal Justice Committee, thank you for this opportunity to present opponent testimony on House Bill 431.

On behalf of the Ohio State Moritz College of Law's National Lawyers Guild, American Civil Liberties Union, If/When/How: Lawyering for Reproductive Justice, Defender's Society, Students for Sensible Drug Policy, Advocates for Children, OutLaws, Education Law Society, Women's Law Society chapters, we submit this testimony in opposition to House Bill 431. As the future lawyers and policy leaders of Ohio, we are gravely concerned with consequences of further criminalizing sex work and creating a registry that memorializes such offenses.

1. This bill puts a further economic strain on our state during an economic crisis.

Ohio is experiencing a public health and economic crisis due to the COVID-19 outbreak that has put a strain on our state's budget. Governor Dewine recently ordered \$775 million in state budget cuts, reducing aid to public K-12 schools by \$300 million and cutting Medicaid by \$210 million. Our state tax collections fell \$867 million below estimates for April. Almost 1.1 million Ohioans have lost their jobs.¹

HB 431, however, will divert \$170,000 of general revenue towards the criminalization of sex work in Ohio, and despite the fact that the Attorney General's budget was cut by 5%, that office will be newly tasked with using its resources to maintain this database. The task of building a new database that criminalizes sex work should not be the focus of our AG's office nor our legislators during such a critical, unprecedented, and uncertain time.

2. Further criminalizing sex work makes the seller dangerously vulnerable to violence and trafficking.

Buying sexual activity is already a criminal act under Ohio's Revised Code, yet the very fact that this bill is in committee indicates that people are still buying sex work despite the understanding that they could be jailed and fined if caught. Yes, this registry will add a new fear in the minds of buyers, but the likelihood that this fear will affect their behavior towards the law is unlikely considering previous criminalization has not done so.

Instead, it will lead to a change in behavior *towards the sex worker*. People that provide sexual labor in exchange for something of value do not do so exclusively under duress, but a portion of sex workers do so as a result of circumstances outside of their control, such as trafficking, domestic violence, and poverty. The people that engage in the selling of sexual activity are regularly vulnerable and at the volition of those purchasing their services, and further criminalizing the work indicates to the buyer that they must be more covert in their purchase in order to not end up on a registry. This drives the buying *and* selling of sex work further underground than it already is, isolating the seller and making them even more vulnerable to the buyer's control, potential violence, and trafficking.

This bill aims to punish buyers, but when we start arresting buyers at a higher rate, sellers will inevitably be accosted more frequently, too. While this bill has the righteous intentions of trying to eliminate

trafficking by deterring the demand, the buyers are likely to bring the sellers down with them, leading to further criminalization of work that people often enter into because they are already in a highly vulnerable state. Raising the stakes around a buyer's activity also raises the stakes around the seller's activity, which does nothing but make sex work more dangerous and trafficking more, not less, likely.²

3. Registries are not effective in protecting victims of crimes.

Criminal registries put the onus on the victim to modify their own behavior in order to avoid perpetrators of a crime. The idea is that if we give the public notice that they are near someone who has committed a crime, they can take matters into their own hands. This strain of logic grew out of the idea that some people cannot help but cause harm to others, and so it becomes the potential victim's duty to avoid such harm. Applied here, the idea is that if we eliminate the buyer and their demand for sex work, we can eliminate trafficking associated with such work.

This goal misunderstands the nature of sex work and the crimes associated with it. Sex-trafficking is inextricably linked to poverty and inequity. Governments have been trying to solve problems adjacent to sex work for centuries, and a registry is not going to solve such historical issues when the complex and convoluted roots are still embedded in our society. Instead, it will only exacerbate the dangers adjacent to sex work and raise incidence of trafficking by driving the supply *and* demand further underground and away from the protections that sex workers need.

In Conclusion

As the future lawyers of Ohio, we urge the Committee to consider the irreversible consequences of this bill and further economic strain it will put on our state, which is already in the middle of a crisis. The intentions of this bill are to help and protect victims of trafficking, but HB431 will not achieve such a goal and instead will do the opposite by raising vulnerability. We hope that this knowledge will allow this committee to make the informed decision to reject this bill and begin to tackle the problem of sex-trafficking at its root, rather than tearing off a few branches.

^[1]<https://www.dispatch.com/news/20200512/top-ohio-officials-trimming-spending-to-help-deal-with-coronavirus-revenue-crunch>

^[2] <https://theintercept.com/2019/04/05/florida-human-trafficking-registry-sex-work/>